



January 31, 2006

Committee for Purchase From People Who are Blind or Severely Disabled

Attn: Ms. Stephanie Hillmon

Assistant General Counsel

1421 Jefferson Davis Highway,

Jefferson Plaza 2, Suite 10800

Arlington, VA 22202-3259

[RulesComment@jwod.gov](mailto:RulesComment@jwod.gov)

(703) 603-0030 Fax

RE: Governance Standards for Non-Profit Agencies Participating in the Javits-Wagner-O'Day (JWOD) Program

Dear Ms. Hillmon:

The American Apparel & Footwear Association (AAFA) is pleased to submit comments to the Committee for Purchase From People Who are Blind or Severely Disabled in support of the efforts to refine the governance standards for nonprofit agencies participating in the JWOD program and evaluating the Committee approach to setting fair market value for products and how the process is affected by excessive executive compensation.

AAFA is the national trade association representing over 400 companies in apparel, footwear and other sewn products companies, and their suppliers. A substantial number of AAFA's domestic manufacturing members supply specialized sewn products to the military. Due to the ever-decreasing opportunities for these domestic companies to sell to the commercial textile market in the United States, these manufacturers rely very heavily on military contract sales to sustain their businesses. There are a number of uniform items that are produced by JWOD agencies for the military, most notably the chemical protective suits and combat uniforms. AAFA and our members are very supportive of this program and those agencies that are in full compliance.

The Committee should be commended for the effort to promote increased accountability and visibility of agencies that are participating in the JWOD program. This program was developed to provide opportunities for individuals who are blind or severely handicapped by establishing a requirement that the government purchase certain products from agencies certified as employing blind or severely handicapped workers. The requirement is that for JWOD programs, 75% of the work is to be done by blind or severely handicapped workers. The recommendations of this industry for the Committee's consideration deal primarily with increasing compliance with the program and providing more uniformity with regard to what constitutes a severely handicapped person.

#### Compliance Enforcement

Introducing more enforcement into the governance of the program can only benefit those for whom the program was created. Currently agencies are largely self-certified through what appear to be good

governance practices, though clearly this is not sufficient considering the scrutiny that some agencies have fallen under with regard to their compensation levels and compliance with the program. Clearly, the number of onsite Committee visits, are not enough to maintain the integrity of the program. Thus, either a more comprehensive program to monitor agency compliance, particularly with regard to the percentage of blind or disabled workers on JWOD contracts, should be developed and implemented as soon as possible. Furthermore, there should be easily accessible annual reports on every agency's compliance for public and private industry review.

#### Violation Procedures

There should be a clear means of enforcing compliance on these governance standards and other JWOD compliance qualifications other than agency certification in forms 401 – 404 and random Committee visits. There should be clear guidelines on what would constitute a violation by an agency and what the assessment or sanction would be applied for violations, such as the revocation of current government contracts or a percentage of current contracts. The amount of time afforded to the central nonprofit agency to address the Committee's assessed violation should not be more than six months. There should also be clear operating procedures for an agency being investigated for a violation, as far as restrictions for the application of any new contracts until such time as the violation has been cleared.

Accreditation programs like Commission on Accreditation of Rehabilitation Facilities (CARF) that do not seem to focus particularly on JWOD compliance, not even having a definition of what constitutes severely handicapped, would not be a sufficient fall back for the Committee. If the Committee were to go this route, then the Committee would need to develop minimum guidelines or approve the guidelines developed by such an accreditation program before providing their endorsement.

#### Definition of Severely Handicapped

The definition of "other severely handicapped and severely handicapped individuals" under the CFR Part 51-1.3 states that "(hereinafter person with severe disabilities) mean a person other than a blind person who has a severe physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which so limits the person's functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time.

- (1) Capability for normal competitive employment shall be determined from information developed by an ongoing evaluation program conducted by or for the nonprofit agency and shall include as a minimum, a preadmission evaluation and a reevaluation at least annually of each individual's capability for normal competitive employment."

This program was set up to benefit the individuals that qualify under this definition and the definition of a blind person, which is even more specific. Though very difficult to document, the lack of compliance and abuse under this provision within the JWOD program has been widely circulated throughout the apparel industry and has also been the topic of several news articles.

An example of this abuse has been defining non-English speaking, but able-bodied individuals as severely handicapped within the JWOD program. The program allows for 25% of the workforce on a JWOD contract to be performed by able-bodied individuals. Supplanting severely handicapped with able-bodied individuals whose only disadvantage is a language impediment would seem to be a flagrant disregard for the intent of the program. Clearly this takes jobs away from the truly severely handicapped and should be monitored better. Non-English speaking individuals who are able-bodied should be counted in the 25% portion of the workforce, not the 75% requirement for labor by the blind or severely handicapped. There should also be clear and consistent guidelines regarding what constitutes disadvantaged and the percentage of work being done by the blind or severely handicapped should not be supplanted by "disadvantaged" individuals under the JWOD program. The process should be open

and the benefits should go to the stated objective of the JWOD program, which is to “create jobs and training opportunities for people who are blind or who have other severe disabilities.”

Compensation Packages

Compensation packages for a nonprofit agency should be reasonable and representative of the size of an agency. Implementing annual reviews of compensation packages will help to ensure that this is the case.

AAFA appreciates the opportunity to support these changes and again commends the Committee for their efforts in this regard. If you have any questions about AAFA’s position on any of the above comments, please feel free to contact Felicia Cheek of my staff at 703.797.9039.

Sincerely,

A handwritten signature in cursive script that reads "Kevin M. Burke". The signature is written in black ink and is positioned below the word "Sincerely,".

Kevin M. Burke  
President & CEO